

AFFIDAVIT IN SUPPORT OF APPLICATION FOR ARREST WARRANT

I, Jason M. Guyton, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Department of Homeland Security (DHS), Homeland Security Investigations (HSI), currently assigned to HSI Cleveland, Ohio. I have been so employed since March, 2009. As part of my daily duties as an HSI Special Agent, I investigate criminal violations relating to child exploitation and child pornography including violations pertaining to the illegal production, distribution, receipt and possession of child pornography, in violation of 18 U.S.C. §§ 2251(a), 2252(a) and 2252A. I have received training in the area of child pornography and child exploitation, and have had the opportunity to observe and review numerous examples of child pornography (as defined in 18 U.S.C. § 2256) in all forms of media including computer media.

2. I am an “investigative or law enforcement officer” of the United States within the meaning of Section 2510(7) of Title 18, United States Code, and am empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in Section 2516 of Title 18, United States Code.

3. This affidavit is being submitted for the limited purpose of establishing probable cause that Cody SWINNERTON, age 24, currently residing in Berea, OH has received/distributed child pornography in violation of 18 U.S.C. § 2252A(a)(2)(A) (receipt and distribution of child pornography) and produced child pornography in violation of 18 U.S.C. § 2251(a) (sexual exploitation of children).

4. The statements contained in this affidavit are based upon my personal knowledge and observations, my training and experience, conversations with other law enforcement officers and witnesses, and the review of documents and records. This affidavit includes only those facts that I believe are necessary to establish probable cause and does not include all of the facts uncovered during the investigation.

RELEVANT STATUTES

5. This Complaint involves violations of the following statutes:

- a. 18 U.S.C. §§ 2252A(a)(2)(A) and (b)(1), which prohibits a person from knowingly receiving, distributing or conspiring to receive or distribute any child pornography or any material that contains child pornography, as defined in 18 U.S.C. § 2256(8), that has been mailed, or using any means or facility of interstate or foreign commerce shipped or transported in or affecting interstate or foreign commerce by any means, including by computer.
- b. 18 U.S.C. §§ 2251(a) and (e), which prohibits a person from using, persuading, inducing, enticing, or coercing a minor to engage in sexually explicit conduct for the purposes of producing visual depictions of such conduct and such depictions are produced using materials that had been mailed, shipped or transported in or affecting interstate or foreign commerce (i.e. camera manufactured outside the state) or depiction was transported in or affecting interstate or foreign commerce.

BACKGROUND OF THE INVESTIGATION AND PROBABLE CAUSE

6. From October 16, 2018 to October 26, 2018, the Ohio Internet Crimes Against Children (ICAC) Task Force received eight (8) CyberTips from the National Center for Missing and Exploited Children (NCMEC) which had been submitted by Facebook / Instagram.

7. Cybertip #42306886 was received by the Ohio ICAC Task Force on October 26, 2018, from Facebook and identified a reported Instagram user with the name Cody Swinnerton, an address of Berea, OH, US, a phone number of +14409154419, an email address of “swinnertonc02@gmail.com”, a screen/user name of 2289745497, and a Instagram profile URL of “https://www.instagram.com/codyswinnerton/”.

8. This Cybertip #42306886 indicated that the above reported user (hereafter SWINNERTON) appeared to be a 19-year-old male located in Berea, Ohio, US, with several accounts on Instagram that appeared to be enticing and coercing minors to produce child exploitation images (CEI). The NCMEC lead revealed, based on the information from Instagram, that the child victims appeared to range in age from 12 to 15 years of age and that SWINNERTON had also contacted victims’ friends and family to coerce the victims into producing more CEI.

9. Instagram identified several other accounts linked to the user name 2289745497 (aka SWINNERTON) which also appeared to be used to entice minors to produce and share apparent CEI, including:

- a. Username: Cody Swinnerton (cody.swinnerton.5)
UID: 100001027731128 (linked Facebook account)
Registration DOB: 05/02/1999
Age: 19
Gender: Male
E-Mail address: swinnertonc02@gmail.com

Phone number: +14409154419

- b. Username: tayl0r_7
UID: 7178019203 (Instagram)
Registration DOB: N/A
Age: States to be 15 yo or 16 yo in the conversations
Gender: N/A
E-Mail address: peytontaylor1@gmail.com
- c. Username: 20aus17
UID: 5538351031
Registration DOB: N/A
Age: N/A
Gender: N/A
Phone number: +14409154419
- d. Username: _usa_5
UID: 7167436373
Registration DOB: N/A
Age: N/A
Gender: N/A
E-Mail address: countrybeats@yahoo.com
- e. Username: cunkylee
UID: 6820131591
Registration DOB: N/A
Age: N/A
Gender: N/A
E-Mail address: thebestatf@aol.com

10. Ohio ICAC Task Force Special Investigator Justin Rotili reviewed this Cybertip and several Instagram conversations between SWINNERTON and possible minor children. During these conversations, SWINNERTON enticed and threatened possible minor children to produce and send apparent CEI. Several users identifying themselves as minor children complied with SWINNERTON'S demands. In one instance, SWINNERTON contacted a friend of one of the possible minor children and engaged that individual in a sexually explicit conversation. A sample taken from a chat that occurred in October 2018 between

SWINNERTON ("Taylor") and a minor who identified himself as 13 years old is as follows:

Minor: Please don't

Taylor: Send the first video

Minor: I'm died like I will actually die

Taylor: Go make first video. And if it goes smooth maybe I won't ask for so much. But go make it now. Don't message me back until u send it.

Taylor: Show balls too

Taylor: Make them one minute! And ok so I want ur entire wank session but I want u to sit on the ground an do it. And want u to do it hands free so lean ur phone on the wall an sit down in front of it with ur legs spread around it so I can see between ur legs an hour balls an dic an u an go to town wanking

Minor: (sent one video containing apparent CEI to Taylor) Done

11. Instagram and NCMEC identified possible child victims in Tennessee, Iowa, Texas, Austria, Australia, and France. NCMEC Cybertips were sent to law enforcement authorities in these states and foreign countries for follow-up investigation and victim identification.

12. Facebook analysts reviewed all content, including conversations and images, referenced in this Cybertip and reported all apparent child exploitation images to NCMEC under separate Cybertips for each possible child victim. These Cybertips were assigned NCMEC #41892232, #41930126, #41896046, #41776235, #41429984, #41919676, #41925848 and included the possible minor child information:

- a. Username: eXXXXXXXXXX2 (several characters have been redacted)
UID: 5658102544

Registration DOB: N/A
Age: 14 yo (States in the conversation)
Gender: Male
CT #41930126

- b. Username: JXXXXXXX6 (several characters have been redacted)
UID: 8018903724
Registration DOB: N/A
Age: 12 yo (States in the conversation)
Gender: Male
CT # 41930126
- c. Username: cXXXXXXXXXXy (several characters have been redacted)
UID: 471786334
Registration DOB: N/A
Age: 15 yo (States in the conversation)
Gender: Male
CT #41896046
- d. Username: Permanently deleted account
UID: 7389048761
Registration DOB: N/A
Age: 13 yo (States in the conversation)
Gender: Male
CT # 41776235, CT # 41429984
- e. Username: killmyselfto1
UID: 3657158520
CT # 41919676
- f. Username: chan_14_
UID: 3966534253
Registration DOB: N/A
Age: 14 yo (States in the conversation)
Gender: Male
CT # 41925848

13. Investigator Rotili viewed each of these seven (7) additional NCMEC Cybertips and found them to contain approximately 120 image and video files of suspected CEI created by the possible minor children identified above and transmitted to multiple Instagram accounts associated with the name Cody Swinnerton. Investigator Rotili described these files as

pubescent and/or slightly pubescent minor male children exposing their genitals and/or engaging in masturbation during what appear to be self-created images and videos.

14. As part of this investigation the Ohio ICAC Task Force obtained information from Detective Amanda Braswell with the Germantown Police Department (Tennessee). Detective Braswell was forwarded NCMEC Cybertip #41892232 since the possible child victim identified as "eXXXXXXXXXX2" (the middle characters have been redacted) resided in her jurisdiction. Detective Braswell identified and interviewed Instagram user "eXXXXXXXXXX2" (the middle characters have been redacted) and identified him as a 13-year-old minor male child with the initials E.C. E.C. indicated to Detective Braswell that he engaged in online conversations with an Instagram user that he identified as "Taylor Payton" and believed that this user was a 15-year-old female child. E.C. admitted to sending between three (3) and five (5) nude images of his genitals to "Taylor Payton."

15. The Ohio ICAC Task Force received an additional Cybertip #4180669 from NCMEC which related to an Instagram user identified as Taylor with the email address of "peytontaylor1@gmail.com", the screen/user name of tayl0r_7 and the Instagram User ID of 7178019203. As noted in paragraph 9(b) above, this Instagram account is one of the ones SWINNERTON used to entice possible minor children to produce and share child exploitation images. The Cybertip indicated that Taylor uploaded one (1) video containing suspected CEI to their Instagram from a device using IP address 2600:1700:c010:da70:b094:7660:4859:493 on June 12, 2018, at 01:24:08 UTC. This IP address was assigned to AT&T Internet.

16. On October 29, 2018, the Ohio ICAC Task Force sent a grand jury subpoena to AT&T Internet Service for subscriber information related to this IP address mentioned above.

AT&T provided the following subscriber information for this IP address:

Subscriber Name: David Swinnerton
Service Address: 261 West Street, Berea, OH 44017
Telephone Number: (440) 915-6100
Email Address: swinjump@yahoo.com
Activation Date: 09/22/2018

17. On December 27, 2018, Investigator Rotili conducted a query of the Ohio Law Enforcement Gateway (OHLEG) database for residents of XXX West Street, Berea, OH 44017 (SUBJECT PREMISES). This query identified four (4) residents as follows: David Swinnerton (DOB: XX/XX/1964), Cody David Swinnerton (DOB: XX/XX/1994), Brandon Swinnerton (DOB: XX/XX/1991), and Christine Dumke (DOB: XX/XX/1968).

SEARCH OF XXX West Street, Berea, OH 44017

18. On January 25, 2019, a search warrant authorized by Cuyahoga County Common Pleas Judge Brendan Sheehan was executed by the Ohio ICAC Task Force at XXX West Street, Berea, OH. The warrant was executed without incident and a desktop, laptop, and tablet were seized. David Swinnerton (Internet Subscriber) was present and agreed to be interviewed by Investigator Rotili.

19. David Swinnerton told Investigator Rotili that he had a good idea why law enforcement was at his home. David Swinnerton explained that it probably involved his son, Cody Swinnerton, and gay pornography. David Swinnerton stated that Cody was currently in Australia on vacation and that they had not spoken very much since he left. David Swinnerton was not sure when Cody was returning to the United States.

20. A forensic preview of a Toshiba Satellite laptop computer that your Affiant found in Cody SWINNERTON'S bedroom revealed multiple screen recordings, video, and image files

depicting suspected child pornography. Your Affiant reviewed some of these files and two (2) are more fully described as follows:

- a. Image Title “IMG_6350_2” – this image file depicts a pubescent white male wearing blue colored shorts or pants that are pulled down and his penis is exposed to the camera. It appears that another person is grabbing the male’s genitals with their hand. The male described in this image has been identified by law enforcement and confirmed to be 14 years old at the time the image was made.
- b. Video Title “IMG_0156_2.mov” – this video file depicts a pubescent white male who appears to be lying on a bed with his genitals exposed to the camera. A second white male can be observed fondling the pubescent white male’s penis and testicles. The male whose genitals are exposed in this video has been identified by law enforcement and confirmed to be 14 years old at the time the video was made.

21. In addition, the forensic preview revealed multiple image and video files of suspected CEI that involve a victim (J.B.) in the Greater Cleveland area. The files date back to 2012 and were taken with multiple devices. The GPS data on many of these files indicate they were taken in the Northern District of Ohio. One of the videos can be more fully described as follows:

- a. IMG_0179_2 (EXIF data shows it was created on 03-17-2013) – this 22 second video file shows SWINNERTON engaging in oral to genital sexual intercourse on J.B. SWINNERTON aims the camera at his own face

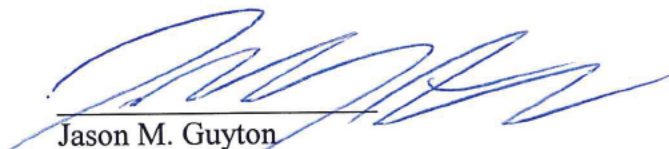
which is clearly visible in the video.

In addition to the video described, multiple additional videos showing J.B. engaging in masturbation were found. These videos appear to have been taken under a door and there is a voice heard off camera instructing J.B. what to do.

22. On February 3, 2019, SWINNERTON was supposed to fly back from Australia to Cleveland but did not get on his flight.


CONCLUSION

23. Based on the foregoing, there is probable cause to believe that Cody SWINNERTON violated 18 U.S.C. § 2252A(a)(2)(A) (receiving and distributing child pornography) and 18 U.S.C. § 2251(a) (sexual exploitation of a minor).


Jason M. Guyton
Special Agent
Homeland Security Investigations

Sworn to via telephone after
submission by reliable electronic
means. Crim.Rules. 4.1; 41(d)(3)




Thomas M. Parker
United States Magistrate Judge
1:38 PM, Feb 7, 2019